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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,033	09/30/2003	Sachin G. Deshpande	SLA1391	5429
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MADSON & AUSTIN				
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SUITE 900				
SALT LAKE CITY, UT 84101				
EXAMINER				
CLOUD, JOIYA M				
ART UNIT		PAPER NUMBER		
2144				
MAIL DATE		DELIVERY MODE		
04/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/675,033

**Applicant(s)**

DESHPANDE, SACHIN G.

**Examiner**

Joiya M. Cloud

**Art Unit**

2144

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4-6, 8-10, 13-15, 17-19, 22-24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-6, 8-10, 13-15, 17-19, 22-24, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***DETAILED ACTION***

1. This action is responsive to communications 08/16/2007. Claims 1, 4-6, 8-10, 13-15, 17-19, 22-24, 26 and 27 are pending. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 01/04/2008 has been entered.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 19-27** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims may be directed towards software only, which is functional descriptive material, which per se is not statutory.

**As per claims 19-27**, Applicant has amended so that a set of executable instructions are embodied in a computer-readable medium, however Applicant's Instant specification does not indicate what the computer-readable medium is- Furthermore, paragraph [0030] states that "embodiments...may be implemented as computer software," which per se is non statutory.

*Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 4-6, 8-10, 13-15, 17-19, 22-24, 26 and 27** are rejected under 35 U.S.C. 102(b) as being anticipated by **Kirkland (US Pub. No 2005/0033850 A1)**.

**As per claim 1**, Kirkland teaches in a Universal Plug and Play (UPnP) server system having media content available for streaming, a method for identifying an original format of the media content, the method being implemented by a UPnP service, the method comprising identifying at least one media content identifier in a media content directory, wherein the media content identifier identifies the media content, identifying a plurality of stream access identifiers that are associated with the media content identifier (**paragraph [0016], lines 8-14 where the session identifier is the stream identifier**), wherein the stream access identifiers identify different media data streams corresponding to the media content, the media data streams comprising an original media data stream and a non-original media data stream, wherein the original media data stream corresponds to the original format of the media content and is streamed from the server system without transcoding or protocol translation being performed; determining which of the plurality of stream access identifiers corresponds to the original media

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data stream; and in response to a client request, providing the client with identifier information about the stream (**paragraphs [0075] and [0100]**).

**As per claim 4**, Kirkland teaches a method wherein identifying the at least one stream access identifier comprises receiving user input (**col. 9, lines 15-30**).

**As per claim 5**, Kirkland teaches a method wherein identifying the at least one stream access identifier comprises matching a characteristic of the at least one stream access identifier to a similar characteristic of the media file (**paragraphs [0018], [0075] and [0100]**).

**As per claim 6**, Kirkland teaches a method wherein identifying the at least one stream access identifier comprises applying a rule to the plurality of stream access identifiers (**paragraphs [0075] and [0100]**).

**As per claim 8**, Kirkland teaches a method wherein the media content directory comprises an attribute that specifies whether a particular stream access identifier corresponds to the original stream (**paragraphs [0075] and [0100]**).

**As per claim 9**, Kirkland teaches a method wherein the at least one stream access identifier comprises the attribute (**paragraphs [0075] and [0100]**).

**As per claims 10 and 13-18**, claims 10 and 13-18 are substantially the same as claims 1-9, but in system rather than method form.

**As per claims 19-27**, claims 19-27 are substantially the same as claims 1 and 4-9 and therefore are rejected using the same rationale.

***CONCLUSION***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joiya Cloud whose telephone number is 571-270-1146. The examiner can normally be reached Monday to Friday from on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3922.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***JMC***

***/William C. Vaughn, Jr./***

**Supervisory Patent Examiner, Art Unit 2144**

